

APPLICATION NO.

UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark: Office Address: COMMISSIONER FOR PATENTS

P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO.

10/624,193 07/21/2003 Wayne P. Fitzmaurice 60-016511US 7725

22798 7590 02/01/2006 EXAMINER

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C. WOITACH, JOSEPH T

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C. P O BOX 458
ALAMEDA, CA 94501

FILING DATE

ART UNIT PAPER NUMBER

1632

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

1) Responsive to communication(s) filed on			Application No.	Applicant(s)			
Joseph T. Woltach - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - ASHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - In the 30 Months from the maining date of the communication. - If NO period for reply is pecified above, the maximum statutory period will apply and will expire SN (8) MONTHS from the mailing date of this communication. - If NO period for reply is pecified above, the maximum statutory period will apply and will expire SN (8) MONTHS from the mailing date of this communication. - If NO period for reply is pecified above, the maximum statutory period will apply and will expire SN (8) MONTHS from the mailing date of this communication. - If NO period for reply is pecified to some statutory period will apply and will expire SN (8) MONTHS from the mailing date of this communication. - If NO period for reply is pecified and some statutory period will apply and will expire SN (8) MONTHS from the mailing date of this communication. - If NO period for reply is pecified in the second statutory period will apply and will expire SN (8) MONTHS from the mailing date of this communication. - If NO period for reply is pecified in the second statutory period will apply and will expire SN (8) MONTHS from the mailing date of this communication. - If NO period for reply is pecified to some statutory period will apply and will expire SN (8) MONTHS from the mailing date of this communication. - If NO period SN (8) MONTHS from the mailing date of this communication. - If NO period SN (8) MONTHS from the mailing date of this communication. - If NO period SN (8) MONTHS from the mailing date of this communication. - If NO period SN (8) MONTHS from the mailing date of this communica	Office Action Summary		10/624,193	24,193 FITZMAURICE ET AL.			
- The MALING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MALING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provious of 37 CFR 1.186.) In one met, however, way a reply be limited that of this communication in the provision of 37 CFR 1.186.) In one met, thousever, may a reply be limited that of this communication. If NO period the reply is pecified above, the mentions studiory period will apply and will easily SIX (8) MONTHS from the maling date of this communication. Feature to epidenthis to be contained period for reply is pecified above, the mentions about the maline mention and the period of the communication, even if timely field, may reduce any versions period will be selected and the period of the communication, even if timely field, may reduce any versions period to the communication of the communication of the communication, even if timely field, may reduce any versions and the period of the communication, even if timely field, may reduce any versions and the period of the communication, even if timely field, may reduce any versions and the period of the communication, even if timely field, may reduce any versions and the period of the communication and the period of the communication of the communication and the period of the communication of the communication and the communication of the communication and the communication of the communication and the communication			Examiner	Art Unit	T		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Exhibition of the many is available under the provisions of 37 CFR 1-13(a). In no event, however, may a maply be timally filled - Exhibition for reply is specified above, the maximum statutory pation will apply and will apply sky (MONTHS from the malling date of this communication creply is specified to reply in specified to reply in specified to reply within the set or extended predect for reply will, by statutor, cause the application to secome ARANDONED (38 U.S. C. § 133). - Fallure to reply within the set or extended predect for reply will, by statutor, cause the application to secome ARANDONED (38 U.S. C. § 133). - Fallure to reply within the set or extended predect for reply will, by statutor, cause the application to secome ARANDONED (38 U.S. C. § 133). - Fallure to reply within the set or extended predect for reply will, by statutor, cause the application to secome ARANDONED (38 U.S. C. § 133). - Fallure to reply within the set or extended predect for reply will, by statutor, cause the application to secome ARANDONED (38 U.S. C. § 133). - Fallure to reply within the set or extended predect for the communication, even if filling the correction of the communication, even if filling the cause the communication is condition and replication for filling the cause of the communication, even if filling the cause of the communication and replication for the day of th			Joseph T. Woitach	1632			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Exeminates for many by a swiled under the provided of 37 CFR 1.19(1). In no event, however, may arely be timely filled in the provided of the provided by the provided of the provided of the provided of the provided by the provided of the provided occurrent of the provided of the provided occurrents have been received in the provided of the provided occurrents have been received in the provided of the provided occurrents have been received in the provided of the provided occurrents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). **See the attached detailed	The MAILING DATE of this communication appears on the cover sheet with the correspondence address						
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Eletenized of the ram pay be availed under the provision of 3° CFR 11.85(a). In a event, however, may angly be timely liked after 50X (6) MONTHS from the mailing date of this communication of 3° CFR 11.85(a). In a event, however, may angly be timely liked after 50X (6) MONTHS from the mailing date of this communication of the provision of the above claim(s)	• •						
1) Responsive to communication(s) filed on	 WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any 						
2a) This action is FINAL. 2b) This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 Claim(s) 16-27 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 Claim(s) is/are allowed. 6 Claim(s) is/are objected to. 8 Claim(s) is/are objected to. 8 Claim(s) is/are objected to. 9 The specification is objected to by the Examiner. 10 The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9 The specification is objected to by the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11 The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Altachment(s) 1) Notice of Dratsperson's Patent Drawing Review (PTO-948) 3) Information bioclacure Statement(s) (PTO-1449 or PTO/SB/08)	Status						
2a) This action is FINAL. 2b) This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 Claim(s) 16-27 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 Claim(s) is/are allowed. 6 Claim(s) is/are objected to. 8 Claim(s) is/are objected to. 8 Claim(s) is/are objected to. 9 The specification is objected to by the Examiner. 10 The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9 The specification is objected to by the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11 The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Altachment(s) 1) Notice of Dratsperson's Patent Drawing Review (PTO-948) 3) Information bioclacure Statement(s) (PTO-1449 or PTO/SB/08)	1)∏ Resp	onsive to communication(s) filed on					
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)			· · · · ·				
Al) Claim(s) 16-27 is/are pending in the application. 4a) Of the above claim(s)	3) Since	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
4) Claim(s) 16-27 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) is/are rejected. 7) Claim(s)	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are objected to. 8) ☒ Claim(s) 16-27 are subject to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. 10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All b) □ Some * c) □ None of: 1. □ Certified copies of the priority documents have been received. 2. □ Certified copies of the priority documents have been received in Application No, 3. □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Altachment(s) 1) □ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) □ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) □ Notice of Informal Patent Application (PTO-152)	Disposition of Claims						
4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are objected to. 8) ☒ Claim(s) 16-27 are subject to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. 10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All b) □ Some * c) □ None of: 1. □ Certified copies of the priority documents have been received. 2. □ Certified copies of the priority documents have been received in Application No, 3. □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Altachment(s) 1) □ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) □ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) □ Notice of Informal Patent Application (PTO-152)							
s) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 16-27 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/S5/08) 5) Notice of Informal Patent Application (PTO-152)	· · · · · · · · · · · · · · · · · · ·						
7) Claim(s) is/are objected to. 8) Claim(s) 16-27 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of Praftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)	,						
7) Claim(s) is/are objected to. 8) Claim(s) 16-27 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of Praftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)	6)∏ Clain	6) Claim(s) is/are rejected.					
Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	7)∐ Clain						
9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of Praftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)	8) Claim(s) 16-27 are subject to restriction and/or election requirement.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Oraftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	Application Papers						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Oraftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	9) The specification is objected to by the Examiner.						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	,— , :						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Orafisperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	Priority under 35 U.S.C. § 119						
1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 1. Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)	12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5 Notice of Informal Patent Application (PTO-152)	a) ☐ All b) ☐ Some * c) ☐ None of:						
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)							
application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) * See the attached detailed Office action for a list of the certified copies not received. 4) Interview Summary (PTO-413) Paper No(s)/Mail Date. 9							
* See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) * See the attached detailed Office action for a list of the certified copies not received. 4) Interview Summary (PTO-413) Paper No(s)/Mail Date. 5) Notice of Informal Patent Application (PTO-152)							
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date. 5) Notice of Informal Patent Application (PTO-152)							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date. 5) Notice of Informal Patent Application (PTO-152)	Attachment(s)						
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)							

DETAILED ACTION

This application filed July 21, 2003, is a continuation of 09/565,616, filed 05/04/2000, now US Patent 6,656,726, which claims benefit of 60/132,697 05/04/1999.

Examiner's comment

Applicant contacted the Examiner and informed the office that it appeared that a preliminary amendment to the claims was not considered. Upon review of the file, Examiner acknowledges that the restriction requirement was not correct.

Accordingly, the restriction requirement mailed January 13, 2006 is vacated.

Applicants' preliminary amendment filed July 21, 2003 has been received and entered. Claims 1-15 have been canceled. Claims 16-27 have been added. Claims 16-27 are pending.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims (16) 20-27, drawn to a method for stable expression of a trangene in a plant cell comprising administering a vector that encodes a transgene and the altered viral movement protein of SEQ ID NO: 6, classified in class 800, subclass 278.
- II. Claim 16, drawn to a method for stable expression of a trangene in a <u>eukaryotic</u> non-plant cell comprising administering a vector that encodes a transgene and the

Art Unit: 1632

altered viral movement protein of SEQ ID NO: 6, classified in class 800, subclass 21.

- III. Claims (16) 17-19 drawn to a method for stable expression of a trangene in a plant cell comprising administering a vector that encodes a transgene, the altered viral movement protein of SEQ ID NO: 6 and further a sequence encoding a 126/183 replicase complex with specific alterations at 1138, 1268,2382 and 3632, classified in class 800, subclass 278.
- IV. Claims (16) 17-19 drawn to a method for stable expression of a trangene in a eukaryotic non-plant cell comprising administering a vector that encodes a transgene, the altered viral movement protein of SEQ ID NO: 6 and further a sequence encoding a 126/183 replicase complex with specific alterations at 1138, 1268,2382 and 3632, classified in class 800, subclass 278.

Claims 16 link(s) inventions I-IV. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s), claims 1 and 7. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable.

Art Unit: 1632

See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP 804.01.

Page 4

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions encompass two different starting materials plant and non-plant cells, that require specific and different methodologies in practicing the method as claimed.

Inventions III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions encompass two different starting materials plant and non-plant cells, that require specific and different methodologies in practicing the method as claimed.

Inventions I-II and III-IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions encompass two different nucleic acid sequences that encode different proteins generating two different types of cells.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, have acquired a separate status in the art because of their recognized divergent subject matter, and the search of one group (for

Application/Control Number: 10/624,193 Page 5

Art Unit: 1632

example one specific sequence) would not identify relevant art for any other group, nor would it be complete nor co-extensive with respect to any one group, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (571) 272-0739.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached at (571) 272-0735.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group analyst Dianiece Jacobs whose telephone number is (571) 272-0532.

Joseph T. Woitach

Joe Wortan